

**A RESOLUTION  
BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO EXTEND A RETAINER AGREEMENT WITH THE LAW FIRM OF ALSTON & BIRD, LLP TO SERVE AS OUTSIDE COUNSEL TO THE CITY OF ATLANTA IN CONNECTION WITH LEGAL MATTERS RELATED TO THE WASTE TRANSFER STATIONS; TO AUTHORIZE EXPENDITURES FOR THAT PURPOSE IN AN AMOUNT NOT TO EXCEED \$75,000 TO BE CHARGED TO AND PAID FROM FAC 1A01-524001-T31001 (CONSULTANT SERVICES NONDEPARTMENTAL); AND FOR OTHER PURPOSES.**

**Whereas**, performance agreements between the City of Atlanta and Advanced Disposal Services, Inc. (Advanced) and Republic Services of Georgia, LLP (Republic) for the removal of garbage, waste, trash, and refuse were to be consummated and performance under the agreements was to begin on or before December 1, 2004; and

**Whereas**, under the agreement between the City of Atlanta and Advanced and Republic, City-owned trucks collect municipal solid waste from single and multi-family residences and deliver that waste to "transfer stations" operated by Advanced and Republic; and

**Whereas**, once waste is received at the transfer stations, title to such waste transfers to Advanced and Republic respectively; and after processing the waste at their facilities, Advanced and Republic transport the material to permitted municipal solid waste landfills in Forsyth and Butts Counties, Georgia; and

**Whereas**, on November 15, 2004, Fulton County filed a complaint against, among others, employees and elected officials for the City of Atlanta for violating O.C.G.A. § 36-1-16 by failing to request permission from Fulton County to transport waste from the City of Atlanta across county boundaries; and

**Whereas**, Fulton County alleges that the City did not seek its permission to transport the City's waste; and

**Whereas**, the City Attorney determined that O.C.G.A. § 36-1-16 is unconstitutional and has notified the County Attorney that proceeding with further legal action would be frivolous and result in a request that Fulton County pay attorney's fees to the City of Atlanta; and

**Whereas**, the City Attorney determined that, due to the particularized expertise and resources needed to properly and expeditiously advance the interests of the City of Atlanta and litigate the matter, outside counsel would be necessary; and

**Whereas**, the City Attorney determined that the law firm of Alston & Bird, LLP has both the specialized practice skills as well as the considerable legal resources necessary to augment the expertise in the City Law Department in a timely fashion to meet pending legal challenges; and

**Whereas**, Alston & Bird, LLP has successfully addressed several of the issues for which the firm was engaged; and

**Whereas**, the City Attorney anticipates incurring additional legal costs as Fulton County continues to litigate this matter.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES** that the City Attorney be and is authorized to extend its retention agreement with the law firm of Alston & Bird, LLP to serve as outside counsel to the City Attorney on legal matters related to the action brought by Fulton County concerning waste transfer matters, Civil Action File NO. 2004-CV-93816.

**BE IT FURTHER RESOLVED** that the City Attorney be and is hereby authorized to incur legal fees, costs and expenses related to this matter in an amount not to exceed \$75,000.00.

**BE IT FINALLY RESOLVED** that the Chief Financial Officer is hereby authorized to remit payment of all legal fees, expenses and costs due for legal services rendered by the law firm of Alston & Bird, LLP in connection with foregoing matters, once approved for payment by the City Attorney, in an amount not to exceed \$75,000.00 to be paid from Fund Account and Center Number 1A01-524001-T31001 (Consultant Services - Nondepartmental).